

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

In re: Subpoenas issued to Carrie L. Carda,) Misc. No. _____
MD, Donald R. Jones, MD, John R. Patty,)
DO and James R. Probst, MD dated)
February 15, 2019)
)

**NON-PARTIES' MOTION TO
QUASH SUBPOENAS AND FOR
A PROTECTIVE ORDER**

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Non-Parties Carrie L. Carda, MD, Donald R. Jones, MD, John R. Patty, DO and James R. Probst, MD (“Movants”), pursuant to Federal Rules of Civil Procedure 26(c) and 45(c)(3)(A), respectfully move this Court to quash separate non-party subpoenas issued to each of them by Marshall Glade, in his capacity as the Liquidating Trustee of a Florida Chapter 11 bankruptcy debtor, because the subpoenas were not properly served on Movants, were not issued by the appropriate court, seek tens of thousands of irrelevant documents, and impose undue burden and severe financial hardship on these non-parties. In support of this motion, Movants rely on the accompanying Memorandum of Law and state:

1. On or about February 15, 2019, the Liquidating Trustee attempted to serve identical document subpoenas on each Movant by U.S. mail relating to certain claims and causes of action being asserted by Liquidating Trustee in connection with Campbellton-Graceville Hospital Corporation’s Chapter 11 bankruptcy action pending in the United States District Court for the Northern District of Florida. The subpoenas are identical in form and request broad and unduly burdensome categories of documents.

2. As an initial matter, the subpoenas are procedurally defective because they have not been served properly and violate the geographical limits set forth in Rule 45.

3. Pursuant to Local Rule 37-3.04, Movants state that their counsel, Matthew Eddy, promptly objected to the subpoenas through a letter of March 13, 2019 to the Liquidating Trustee's counsel, Gary Freedman, attempting to resolve their disputed issues presented with the subpoenas. The letter raised a number of objections to the subpoenas because the requests were overly broad, sought irrelevant and confidential information, and imposed undue burdens. Nonetheless, as a gesture of good faith, Movants offered to voluntarily produce certain documents if the Liquidating Trustee was willing to forego further discovery and substantially narrow the scope of records sought by the subpoenas.

4. Despite Movants' good faith efforts and willingness to work with the Liquidating Trustee to limit the scope of the subpoenas to a manageable level, Movants never received a response to their counsel's letter or any other communication indicating a willingness to explore a compromise. Instead, Movants each received an Omnibus Notice of Rule 2004 Examination Duces Tecum from the Liquidating Trustee on or about April 1, 2019.

5. The Liquidating Trustee's notice improperly represents to the Florida bankruptcy court that, "[t]he parties upon which the subpoenas were *served* were required to either produce the documents . . . or, alternatively, bring to the examination the documents described on the attached Subpoena and permit copying of the materials." (Emphasis added).

6. The Liquidating Trustee's unwillingness to work with Movants to limit the scope and breadth of the subpoena requests to a manageable level needlessly and senselessly subjects Movants to undue burden and financial hardship. Adding to Movants' frustrations, they have now been forced to hire counsel and pay costs associated with preparing and filing this motion.

WHEREFORE, Non-Parties Carrie L. Carda, MD, Donald R. Jones, MD, John R. Patty, DO and James R. Probst, MD respectfully request that the Court issue an Order quashing the Liquidating Trustee's subpoenas and enter a Protective Order prohibiting Liquidating Trustee or his attorney from seeking to compel Movants to appear for a Rule 2004 Examination Duces Tecum in the underlying bankruptcy action; that they be awarded their attorney fee's in connection with bringing this motion; and for such other and further relief as the Court deems just and proper. A proposed Order is attached.

Dated: April 18, 2019

Respectfully submitted,

/s/ Matthew J. Eddy
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